



## US-EU AIRCRAFT DEAL

The U.S. and the European Union have [announced](#) a [deal](#) for a five-year suspension of the tariffs each has imposed as retaliation for Airbus and Boeing subsidies. A Working Group on Large Civil Aircraft is being created to work on financing, R&D funding, and third-party non-market practices. No specific date has been announced yet for ending the retaliatory tariffs. Clients subject to these tariffs should consider measures to avoid them while they remain in effect. Contact [Marshall Miller](#) with questions.

## FTZ COMPLIANCE REVIEWS

· U.S. Customs and Border Protection (CBP) has [issued](#) a compliance review checklist for use by CBP Officers for FTZ compliance reviews.  
· Anticipate either a virtual or physical compliance review by Sept. 30, 2021, the end of CBP fiscal year.  
· Contact [Linda King](#) with questions.

## DIGITAL SERVICES TAX

· The U.S. Trade Representative (USTR) has [announced](#) the imposition of additional 25% duties on certain products of Austria, India, Italy, Spain, the United Kingdom, and Turkey in its Section 301 Digital Services Tax (DST) investigations. However, these additional 25% duties have been suspended until November 29, 2021 to facilitate multilateral negotiations on the issue. 86 [Fed. Reg. 30350](#) (June 7, 2021); 86 [Fed. Reg. 30353](#) (June 7, 2021); 86 [Fed. Reg. 30356](#) (June 7, 2021); 86 [Fed. Reg. 30358](#) (June 7, 2021); 86 [Fed. Reg. 30361](#) (June 7, 2021); 86 [Fed. Reg. 30364](#) (June 7, 2021).

· The Notices all contain language that products in FTZs will be subject to the rate of duty in effect at the time of Customs entry, not FTZ admission. This is a significant change in USTR policy. Contact [Marshall Miller](#) with questions.

## PPE EXPORT CHANGES

On May 19, the Federal Emergency Management Agency (FEMA) announced changes to restrictions on personal protective equipment (PPE) exports. Restrictions have been lifted for industrial N95 respirators, some PPE surgical masks, piston syringes, and hypodermic single lumen needles. Surgical N95 respirators, nitrile gloves, and Level 3 and 4 surgical gowns are still restricted. Contact [Sean Murray](#) with questions. CSMS [#47857356](#) (May 19, 2021)

## 2021 FALL SEMINARS

Due to COVID-19, our Fall training seminars will again be by webinar only.  
· FTZ 101: Sept. 14 – 16  
· FTZ 201: Sept. 21 – 23  
· Import/Export 101: Oct. 12 – 14  
· Import/Export 201: Oct. 19 – 21

More detailed information is posted to our website. Visit our [website](#) to register or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

## SECTION 301 LITIGATION

· The plaintiffs in the [HMTX](#) sample case have filed a motion with the U.S. Court of International Trade (CIT) requesting oral argument and a preliminary injunction to freeze the liquidation of unliquidated entries subject to the China Section 301 Lists 3 and 4A additional duties. The government has filed a motion to dismiss the case.  
· The CIT has scheduled oral arguments for June 17 on the plaintiffs' motion for a preliminary injunction. The CIT's ruling should clarify the approach to liquidating entries that are subject to the litigation.  
· Please contact [Brian Murphy](#) or [Sean Murray](#) with any questions.

## 301 PRODUCT EXCLUSIONS

The U.S. Court of International Trade (CIT) has dismissed an importer's request for refunds of China Section 301 duties for merchandise retroactively covered by a China Section 301 product exclusion because the importer failed to file protests. [ARP Materials, Inc. v. U.S.](#), CIT Slip Op. [21-73](#) (June 11, 2021).

## ALUMINUM LICENSES

· On May 27, CBP announced deployment of the Aluminum Import Monitoring and Analysis System (AIM) to the CERT environment. CSMS [#48341133](#) (May 27, 2021).  
· Beginning June 28, imports of most aluminum products will require an aluminum import license in the AIM system. This includes FTZ admissions. CSMS [#48350723](#) (May 28, 2021); 86 [Fed. Reg. 27513](#) (May 21, 2021).

## TRADE STRIKE FORCE

The Biden Administration has [announced](#) the creation of a Trade Strike Force led by the U.S. Trade Representative (USTR) to propose unilateral and multilateral enforcement actions to combat unfair foreign trade practices that have impacted critical

## CHINESE SECURITIES

· On June 3, President Biden signed Executive Order (EO) 14032, amending EO 13959 issued by the Trump Administration concerning U.S. investment in Chinese defense and surveillance firms. U.S. persons are prohibited from investing in 59 entities identified in the Executive Order because of their connection to the Chinese defense or intelligence sectors. 86 [Fed. Reg. 30145](#) (June 7, 2021).  
· The Office of Foreign Assets Control (OFAC) has published the Non-SDN Chinese Military-Industrial Complex Companies List (NS-CMIC List) of these 59 entities. 86 [Fed. Reg. 30677](#) (June 9, 2021).

## TIKTOK/WECHAT APPS

On June 9, President Biden [issued](#) an Executive Order (EO) that revoked three EO's issued by President Trump and removed restrictions on the TikTok and WeChat apps. Instead, the EO creates a new framework for government reviews of information and communications technology and services (ICTS), including criteria to assess national security risks. Contact [Sean Murray](#) with questions.

## FORCED LABOR - TOBACCO

CBP has [announced](#) the modification of an existing Withhold Release Order (WRO) on imports of tobacco from Malawi. Effective May 21, 2021, tobacco imports from Premium Tobacco Malawi Limited are admissible provided the tobacco is harvested by Club Growers in Malawi.

## FORCED LABOR - RULINGS

CBP has removed two previously issued rulings concerning the detention of shipments imported by Uniqlo and suspected of manufacture using forced labor. These rulings, HQ H318182 and H318835, were placed on Customs Rulings Online Search System in error after the underlying protests were withdrawn prior to a final disposition of the issues involved in the rulings.

## FORCED LABOR - POLYSILICON

On June 10, Democrats on the House Ways and Means Committee sent a [letter](#) to Acting CBP Commissioner Troy Miller requesting CBP enforcement action on polysilicon products produced with forced labor from Xinjiang.

## FORCED LABOR - CHINESE FISH

On May 28, CBP [announced](#) a Withhold Release Order (WRO) against Dalian

## INNOVATION AND COMPETITION ACT

The Senate passed the U.S. Innovation and Competition Act of 2021 ([S. 1260](#)) on June 8. It is intended to counter China's growing influence by investing more than \$200 billion in American technology, science, and research. It also authorizes a new Miscellaneous Tariff Bill (MTB), renews the Generalized System of Preferences (GSP), and restarts the China Section 301 product exclusion process, including a process for retroactive product exclusions. It is unclear when the House of Representatives will vote on the bill.

## CLASSIFICATION PRE-PENALTY

Ford has disclosed in a quarterly SEC 10-Q filing that CBP [issued](#) a pre-penalty notice relating to its misclassification of Transit Connect vans and related underpayment of duties. CBP is apparently contemplating the issuance of a penalty claim of up to \$1.3 billion. Contact [Brian Murphy](#) with questions.

## BIS ANTIBOYCOTT POLICY

The Bureau of Industry and Security (BIS) has issued a Final Rule recognizing that the United Arab Emirates (UAE) no longer participates in the Arab League Boycott of Israel. Under the new rules, certain UAE-related requests for information, action, or agreement will not be presumed to be boycott related. 86 [Fed. Reg. 30535](#) (June 9, 2021).

## BOYCOTT MOVEMENTS

Companies that refuse to do business with Israel as part of the Boycott, Divestment and Sanctions (BDS) [movement](#) could be denied the opportunity to contract with state governments. Some 35 states have anti-BDS laws, resolutions, or executive orders. Contact [Bryan Brown](#) with questions.

## CHAD BRIBERY

Two diplomats from the African nation of Chad have been [charged](#) with violating the Foreign Corrupt Practices Act (FCPA) while stationed in Washington. The two are accused of using their influence to allow a Canadian energy company to obtain oil rights in Chad in exchange for \$2 million in bribes. Naeem Tyab, the owner of the Canadian company, was arrested in 2019 and pleaded guilty. As part of his settlement, he agreed to forfeit \$27 million.

## IRAN PENALTY

The BIS has [announced](#) an enforcement order against Kleiss & Company, a Netherlands based entity, for buying U.S. origin sealants for an Iranian customer and concealing the details from BIS. Under the terms of the order, Kleiss was ordered to pay a \$60,000 fine and had its export privileges temporarily revoked.

## NAIROBI PROTOCOL

CBP has ruled that a bare printed circuit board incorporated into a device designed to assist people with sleep apnea or chronic breathing issues qualified for secondary classification as an article specially designed or adapted for the use or benefit of the physically or mentally handicapped and duty-free treatment under the Nairobi Protocol. NY [N319125](#) (May 13, 2021).

supply chains.

## DDTC REMOTE WORKERS

The Directorate of Defense Trade Controls (DDTC) has issued a Proposed Rule to permanently change the definition of a "regular employee" to allow remote work. Comments are due by July 26. 86 [Fed. Reg. 28503](#) (May 26, 2021).

## ENTITY LIST UPDATES

The Bureau of Industry and Security (BIS) has added eight new entities from Pakistan and the United Arab Emirates to the Entity List, for suspected nuclear proliferation activities. At the same time, it removed Molecular Devices Shanghai Company from the Military End User (MEU) List. 86 [Fed. Reg. 29190](#) (June 1, 2021).

## DEEMED EXPORTS

Aerojet Rocketdyne has reached a [settlement](#) with the Department of Justice after it refused to consider a permanent resident for a mechanic position. Aerojet mistakenly believed that only U.S. citizens would be allowed access to defense technology controlled by the International Traffic in Arms Regulations (ITAR), but U.S. permanent residents ("green card" holders) may access ITAR data. Under terms of the settlement, Aerojet paid \$37,008 in penalties. Contact [Sean Murray](#) or [Bryan Brown](#) with questions.

## CARBON FIBER EXPORTS

The BIS has [revoked](#) the export privileges of Iranian businessman Behzad Pourghannad following his conviction for attempting to export carbon fiber from the U.S. to Iran. Mr. Pourghannad was also sentenced to 20 months in prison.

## RUSSIA SANCTIONS PENALTY

GVA International Oil and Gas Services (GVA) [pled guilty](#) to charges that it conspired to obtain U.S. turbines for use in a Russian deepwater Arctic oil platform. GVA's owner is currently serving a 28-month prison sentence. One of its employees and an employee of another company were also arrested.

## WRISTWATCHES

CBP has issued a ruling determining that the country of origin of certain wristwatches was the country of assembly of the watch movements. However, when a Japan-origin watch movement was assembled with a China-origin watch band in China, the watch band was not substantially transformed and remains a China-origin good subject to Section 301 duties. HQ [H306338](#) (May 14, 2021).

## HARD SELTZER

CBP has revoked two rulings on hard seltzers. Customs had previously classified hard seltzer in Heading 2203 as beer made from malt, but now has determined that hard seltzers are more appropriately classified as other fermented beverages of Heading 2206. 55 [Cust. B. & Dec. 21](#) (June 2, 2021).

## FWS ACE TIPS

Customs has issued updated tips for the trade when filing U.S. Fish and Wildlife

Ocean Fishing Co., Ltd., based on information that indicates the use of forced labor in the company's fishing operations.

## SECTION 301 SCAMS

The Office of the U.S. Trade Representative has [posted](#) a list of frequently asked questions related to Section 301 investigation scams. The agency said it does not collect money from the public and, while it may contact individuals as part of an investigation, it will not demand immediate payment. Other red flags include contact through text messages or social media and the use of email addresses not from a government agency.

## SECTION 232 DERIVATIVES

On May 27, Black and Decker filed a complaint at the U.S. Court of International Trade (CIT) seeking refunds of Section 232 tariffs on steel and aluminum derivatives that were previously invalidated by the CIT in [PrimeSource Building Products v. U.S.](#), Slip Op. [21-36](#) (April 5, 2021). Black and Decker seeks application of the [PrimeSource](#) decision to its payments of Section 232 duties.

## EPA EXPORT SUBMISSIONS

Beginning June 14, the Environmental Protection Agency (EPA) will [allow](#) the electronic submission of Toxic Substance Control Act notifications for chemical exports through its Central Data Exchange system.

## GUNS AND AMMO JURISDICTION

Jurisdiction over certain software and technology related to guns and ammunition is transferring from the International Traffic in Arms Regulations (ITAR) to the Export Administration Regulations (EAR). 86 [Fed. Reg. 29189](#) and [29196](#) (June 1, 2021)

## COMMINGLING

The CIT has ruled that a shipment of secondhand clothing was commingled goods and subject to the highest rate of duty for the included articles. [DIS Vintage LLC v. U.S.](#), CIT Slip Op. [21-61](#) (May 17, 2021).

## GOLF CLUBS

· CBP has issued guidance on the Customs entry reporting of golf clubs made of components from multiple countries of origin. If either the club head or shaft has the same origin as the country of club assembly, then the club origin is the country of its assembly, but if the origin of both the head and the shaft are different from the country of assembly, then the club has multiple countries of origin. Section 301 duties apply to separately declared Chinese origin components. CSMS [#47830638](#) (May 18, 2021).

· CBP has issued a ruling that the country of origin of a golf club assembled in Mexico from a Chinese shaft, Chinese grip, and Mexican head was China and the finished club was subject to China Section 301 duties. HQ [H313087](#) (May 27, 2021).

## FIRE PITS

CBP has proposed to revoke or modify several rulings concerning the classification of fire pits. CBP has

### MULTIPLE ORIGINS

CBP has issued a ruling that a card game consisting of cards made in Vietnam and China and packaged in Vietnam had multiple countries of origin because the China-origin cards were not substantially transformed by the packaging operations in Vietnam. NY [N318991](#) (May 5, 2021).

### PLASTIC BAG CLASSIFICATION

The Court of Appeals for the Federal Circuit (CAFC) has upheld a CIT decision classifying Ziploc reclosable sandwich bags as articles for the conveyance or packing of goods in Heading 3923 instead of as plastic household goods in Heading 3924. *SC Johnson & Son Inc. v. U.S.*, CAFC Slip Op. [2020-1476](#) (June 2, 2021).

### THE BUTLER DID IT

CBP has issued a ruling that a plastic zombie-like butler figure holding a stainless steel tray in one hand with a polyester towel draped over the other was classified in Heading 3924 as tableware or kitchenware because the figure was capable of holding candy. NY [N319195](#) (May 20, 2021).

### BURMA/MYANMAR SANCTIONS

OFAC has issued a Final Rule implementing the Burma Sanctions Regulations. The new regulations are in abbreviated form, and OFAC plans to supplement them. 86 *Fed. Reg.* [29197](#) (June 1, 2021).

### CHINA MEU

GOWIN Semiconductor, a Chinese semiconductor company, is [challenging](#) its designation as a Military End User (MEU) in U.S. court. GOWIN points out that its Board is made up entirely of civilians and that its CEO and President are U.S. citizens.

Service (FWS) data in ACE. CSMS [#48439244](#) (June 9, 2021).

### STERILIZER FDA IMPORT ALERT

The Food and Drug Administration (FDA) has added ethylene oxide sterilized medical devices processed at the Steril Milano facilities in Monza and Reggiolo, Italy to Import Alert 89-04. FDA believes that 97 medical device firms may be affected. CSMS [#48463000](#) (June 10, 2021).

### EAPA ALUMINUM EXTRUSIONS

On May 19, CBP [announced](#) an investigation and interim measures under the Enforce and Protect Act (EAPA) involving the suspected transshipment of China-origin aluminum extrusions through the Dominican Republic by Kingtom Aluminio SRL.

### NAFTA CERTIFICATES

CBP has issued a ruling denying NAFTA preferential tariff treatment because the importer did not have possession of the NAFTA Certificate of Origin at the time of importation. The NAFTA Certificate of Origin was at the production facility in Mexico. HQ [H317381](#) (Mar. 19, 2021).

### ENTITY LIST - BULGARIA

OFAC has [added](#) 3 Bulgarian individuals and 64 Bulgarian entities to the Specially Designated Nationals and Blocked Persons (SDN) List for engaging in corruption. 86 *Fed. Reg.* [30517](#) (June 8, 2021).

previously classified fire pits based on their constituent material, but now proposes to classify them based on the material of the fire pit's outer body. Comments are due by June 18. 55 *Customs B. & Dec.* [13](#) (May 19, 2021).

### DRUG SUPPLY CHAIN SECURITY

The Food and Drug Administration (FDA) has [released](#) guidance documents outlining the responsibilities of pharmaceutical manufacturers, repackagers, and other trading partners under the Drug Supply Chain Security Act (DSCSA). The guidance centers on the requirement for product identifiers and the verification obligations under for suspect and illegitimate products.

### IRAN TRANSSHIPMENTS

Tina Chen, a resident of Las Vegas and owner of Top One Zone, has been [indicted](#) for allegedly conspiring to ship U.S. goods through Hong Kong to Iran. If convicted, Ms. Chen faces up to 20 years in prison and a \$1 million fine.

### FDA DUNS LOOKUP PORTAL

The Food and Drug Administration (FDA) DUNS lookup portal is no longer available. CSMS [#47841887](#) (May 19, 2021).

### FTZ STATS

#### FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 06/15/2021

	Approved	Currently Authorized
Zones	294	276
Subzones	870	716
Pending		
Zones	3	
Subzones	11	
Misc.	52	